



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

May 3, 2002

Ms. Ellen Garvey  
Air Pollution Control Officer  
Bay Area Air Quality Management District  
939 Ellis Street  
San Francisco, CA 94109

Dear Ms. Garvey:

The purpose of this letter is to summarize our objection to the proposed Bay Area Air Quality Management District ("BAAQMD" or "District") title V permit for the Tosco Refinery Company (now Phillips 66), Contra Costa Carbon Plant ("Carbon Plant") which was received by EPA on March 20, 2002. Based on our review of the proposed permit, copies of the public comment letters received by the District<sup>1</sup>, and the supporting information, EPA formally objects, pursuant to our authority under Clean Air Act ("CAA") § 505(b)(1), the implementing regulations at 40 Code of Federal Regulations ("CFR") § 70.8(c) (see also, BAAQMD Rule 2-6-411), to the issuance of the proposed permit. In the proposed permit, the Carbon Plant was evaluated as a source separate from the nearby Phillips 66 refinery. We have learned today that the District has now tentatively determined that the Carbon Plant is a single source with refinery. Consistent with this tentative determination, the proposed permit must be revised to ensure it includes all "emission limitations and standards, including those operational requirements and limitations that assure compliance with all applicable requirements at the time of permit issuance" 40 CFR § 70.6(a)(1).<sup>2</sup> As we discussed today, we are confident our objections will be adequately addressed during the 90-day resolution period.

On March 20, 2002, the District proposed the Carbon Plant title V permit as a separate source from the Phillips 66 refinery. In its April 25, 2002 letter, Adams Broadwell identified their belief that the Carbon Plant was in fact one source with the refinery, and listed a series of applicable refinery requirements that needed to be included in the Carbon Plant permit. In a conference call we had with your staff earlier today and confirmed in writing in an e-mail from Steve Hill to David Wampler, the District stated that it was their tentative conclusion that the Carbon Plant is indeed contiguous with the Phillips 66 refinery, and therefore, should be a single

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<sup>1</sup>The comment letters were from The Phillips 66 Company; Golden Gate University Environmental Law and Justice Clinic on behalf of Our Children's Earth; and Adams, Broadwell, Joseph and Cardozo ("Adams Broadwell") on behalf of the Plumbers and Steamfitters Union Local 342, the International Brotherhood of Electrical Workers Local 302 and the Boilermakers Union Local 549.

<sup>2</sup>See also the District's approved operating permits program section 2-6-409 which requires the permit contain "a listing of all applicable requirements..."

source with the refinery. We agree with your determination. We also understand that the District has not yet determined what additional applicable requirements need to be added to the Carbon Plant title V permit. Our objection provides the District time to fully evaluate the applicability of additional requirements and to include, as necessary, all applicable requirements.

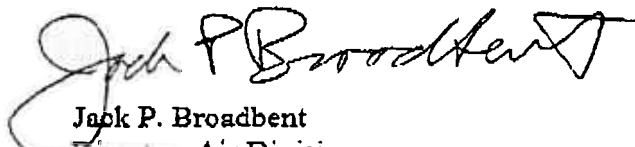
Under CAA § 505(b)(1) and 40 CFR § 70.8(c), EPA may object to a proposed Part 70 permit that is determined not to be in compliance with applicable requirements or the requirements of Part 70. After EPA objects to a permit, the permitting authority has 90 days to satisfy the objection. If the 90 days pass without the objection being fully satisfied, CAA § 505(c) and 40 CFR § 70.8(c)(4) provide that the authority to issue or deny the permit passes to EPA. Because the objection issues must be fully resolved within the 90 days, we suggest that the revised permit be submitted in advance in order that any outstanding issues may be addressed prior to the expiration of the 90-day period.

We understand that you are concerned about how this objection will delay the issuance of this permit as you strive to meet your commitment to issue seven final title V permits by June 1, 2002.<sup>3</sup> While we continue to strongly encourage you to issue permits according to the commitments you made, we understand that you are making a good faith effort to meet the deadline and that, in this case, new information has been provided to you that must be evaluated before the permit is issued. This delay is necessary and was not foreseen when you proposed the title V permit for the Carbon Plant. We will work with you as necessary to correct the permit within the 90-day period and will recognize this permit towards the seven that you had committed to issue.

Finally, due to the number and complexity of the issues raised by commenters, and the short period of time available to us to evaluate them, we have not been able to fully formulate our position on each issue. However, we expect all issues raised by commenters to be addressed by the District prior to issuing the final permit, including concerns raised about periodic monitoring determinations for the baghouses and for generally applicable requirements. Of course, please provide documentation of your applicability determinations and monitoring determinations as part of the permitting record for this source once your conclusions have been reached.

We are committed to working with you to resolve these issues. If you have any questions concerning our comments, please contact David Wampler at (415) 972-3975.

Sincerely,



Jack P. Broadbent  
Director, Air Division

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<sup>3</sup>See November 8, 2001 letter to Jack Broadbent, Director, Air Division, U.S. EPA Region 9, from Ellen Garvey, Air Pollution Control Officer/Executive Officer, Bay Area Air Quality Management District.

cc: Katherine S. Poole, Adams Broadwell Joseph and Cardozo  
Ken Kloc, Golden Gate University Environmental Law and Justice Clinic  
Dale Iverson, Phillips 66 Company  
Beverly Werner, CARB